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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
MASAKI OKUYAMA, ET AL. : EXAMINER: VENKAT, JYOTHSNA A.
SERIAL NO: 10/748,148 :
FILED: DECEMBER 31, 2003 : GROUP ART UNIT: 1615
FOR: COSMETIC COMPOSITION FOR :
EYELASHES

DECLARATION UNDER 37 C.F.R. § 1.132

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Now comes Masaki OKUYAMA who states that:

1. I am a named inventor of the above-identified application.
2. I have been employed by KOSÉ CORPORATION for 17 years as a scientific researcher in the field of makeup products.
3. I understand the English language, or at least the contents of the Declaration were made clear to me prior to executing the same.

4. The polypropylene fibers of Examples 1-5 and Comparative Examples 2 and 4 are shown in Table 1 (reproduced below) at page 19 of the present specification.

Table 1

No. Component	Example					Comparative Example (%)				
	1	2	3	4	5	1	2	3	4	
1) Stearic acid	3	3	3	3	3	3	3	3	3	3
2) Carnauba wax	5	5	5	1	5	5	6	5	5	5
3) Candelilla resin*1	5	5	5	10	1	5	-	5	5	5
4) Cetyl alcohol	1	1	1	1	1	1	1	1	1	1
5) Purified water	balance	balance	balance	balance	balance	balance	balance	balance	balance	balance
6) Triethanolamine	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5
7) Polypropylene fiber*2	2	0.5	5	2	2	-	2	-	-	-
8) Polypropylene fiber*3	-	-	-	-	-	-	-	-	-	2
9) Nylon fiber*4	-	-	-	-	-	2	-	-	-	-
10) Rayon fiber*5	-	-	-	-	-	-	-	-	2	-
11) Alkyl acrylate polymer emulsion*6	40	40	40	40	40	40	40	40	40	40
12) Methyl p-hydroxybenzoate	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
13) Chamomile extract	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
14) Black iron oxide	8	8	8	8	8	8	8	8	8	8
15) Silica*7	5	5	5	5	5	5	5	5	5	5
Results of evaluation and results of determination										
Make-up effect (long lash effect)	OO	O	OO	OO	OO	Δ	O	Δ	O	
Long-lasting of make-up effect	OO	OO	OO	OO	O	O	X	O		Δ
Smoothness upon making-up	OO	OO	O	O	OO	O	Δ	O		X
Uniformity of finished film	OO	OO	O	OO	OO	Δ	Δ	Δ		Δ

*1: softening point 47 to 48°C

*2: 6 D, 1 mm, treated with 0.5% silica

*3: 20 D, 4 mm, treated with 0.5% silica

*4: 6 D, 1 mm, untreated

*5: 6 D, 1 mm, untreated

*6: solid content 40%

*7: SYLYSIA 550 (manufactured by Fuji Silysia Chemical S.A.)

5. Experimental Results:

Table A

No.	Component	Additional Example 1	Comparative Example 1	Comparative Example 3
(1)	Stearic acid	3	3	3
(2)	Carnauba wax	5	5	5
(3)	Candelilla resin *1	5	5	5
(4)	Cetyl alcohol	1	1	1
(5)	Purified water	balance	balance	balance
(6)	Triethanolamine	1.5	1.5	1.5
(7')	Polypropylene fiber*2	2	-	-
(9)	Nylon fiber*3	-	2	-
(10)	Rayon fiber*4	-	-	2
(11)	Alkyl acrylate copolymer emulsion*5	40	40	40
(12)	Methyl p-hydroxybenzoate	0.5	0.5	0.5
(13)	Chamomile extract	0.1	0.1	0.1
(14)	Black iron oxide	8	8	8
(15)	Silica *6	5	5	5
Items of evaluation and results of determination				
a	Make-up effect (long lash effect)	OO	Δ	Δ
b	Long-lasting of make-up effect	OO	O	O
c	Usability of making-up	OO	O	O
d	Uniformity of finished film	O	Δ	Δ

Extremely favorable: OO

Favorable: O

Rather unfavorable: Δ

Unfavorable: ×

*1: softening point 47 to 48°C

*2: 6D, 1 mm, untreated

*3: 6D, 1 mm, untreated

*4: 6D, 1 mm, untreated

*5: solid content 40%

*6: SYLYSIA 550 (manufactured by Fuji Silysia Chemical Ltd.)

[Table B]

No.	Component	Additional Examples								
		2	3	4	5	6	7	8	9	10
(1)	Steric acid	3	3	3	3	3	3	3	3	3
(2)	Carnauba wax	5	5	5	5	5	5	5	5	5
(3)	Catalina resin ¹	5	5	5	5	5	5	5	5	5
(4)	Cetyl alcohol	1	1	1	1	1	1	1	1	1
(5)	Purified water	balance	balance	balance	balance	balance	balance	balance	balance	balance
(6)	Triethanolamine	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5
(7)	Polpropylene fiber ²	2	0.5	5	-	-	-	-	-	-
(8)	Polypolyene fiber ³	-	-	-	2	0.5	5	-	-	-
(9)	Polypolyene fiber ⁴	-	-	-	-	-	-	2	0.5	5
(10)	Nylon fiber ⁵	-	-	-	-	-	-	-	-	-
(11)	Nylon fiber ⁶	-	-	-	-	-	-	-	-	-
(12)	Nylon fiber ⁷	-	-	-	-	-	-	-	-	-
(13)	Rayon fiber ⁸	-	-	-	-	-	-	-	-	-
(14)	Alkyl acrylate copolymer emulsion ⁹	40	40	40	40	40	40	40	40	40
(15)	Methyl Phenoxybenzoate	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
(16)	Chamomile extract	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
(17)	Black iron oxide	8	8	8	8	8	8	8	8	8
(18)	Silica ¹⁰	5	5	5	5	5	5	5	5	5
Items of evaluation and results of determination										
a	Make-up effect (long lasting effect)	00	0	00	0	0	00	00	00	00
b	Long-lasting of make-up effect	00	00	00	00	00	00	00	00	00
c	Usability of making up	00	00	00	00	00	00	00	00	00
d	Uniformity of finished film	0	00	0	00	00	00	00	00	00

Extremely favorable: 00 Favorable: 0 Rather unfavorable: Δ Unfavorable: \times

[Table B']

No.	Component	Additional Comparative Examples						
		1	2	3	4	5	6	7
(1)	Stearic acid	3	3	3	3	3	3	3
(2)	Canouba wax	5	5	5	5	5	5	5
(3)	Candelilla resin ^a	5	5	5	5	5	5	5
(4)	Cetyl alcohol	1	1	1	1	1	1	1
(5)	Purified water	balance	balance	balance	balance	balance	balance	balance
(6)	Tricthanolamine	1.5	1.5	1.5	1.5	1.5	1.5	1.5
(7)	Polypropylene fiber ^{*2}	-	-	-	-	-	-	-
(8)	Polypylene fiber ^{*3}	-	-	-	-	-	-	-
(9)	Polypylene fiber ^{*4}	-	-	-	-	-	-	-
(10)	Nylon fiber ^{*5}	2	0.5	6	-	-	-	-
(11)	Nylon fiber ^{*6}	-	-	2	-	-	-	-
(12)	Nylon fiber ^{*7}	-	-	-	2	-	-	-
(13)	Rayon fiber ^{*8}	-	-	-	-	2	0.5	5
(14)	Alloy acrylate	40	40	40	40	40	40	40
	copolymer emulsion ^{*9}							
(15)	Methyl p-hydroxybenzoate	0.5	0.5	0.5	0.5	0.5	0.5	0.5
(16)	Chamomile extract	0.1	0.1	0.1	0.1	0.1	0.1	0.1
(17)	Black iron oxide	8	8	8	8	8	8	8
(18)	Silica ^{*10}	5	5	5	5	5	5	5

Items of evaluation and results of determination

	Extremely favorable: O	Favorable: C	Rather unfavorable: A	Unfavorable: X
a	Make-up effect (long last effect)	A	X	O
b	Long-lasting of make-up effect	0	A	O
c	Usability of make-up	0	X	O
d	Uniformity of finished film	0	0	X

*1: 10D, 3 mm, untreated

*2: 6D, 2 mm, untreated

*3: 5D, 0.5 mm, untreated

*4: 10D, 3 mm, untreated

*5: 6D, 2 mm, untreated

*6: 3D, 0.5 mm, untreated

*7: 10D, 3 mm, untreated

*8: 6D, 2 mm, untreated

*9: solid content 40%

*10: STYLASSO (manufactured by
 Raji Shyam Chemical Ltd.)

Table C

No.	Component	Additional Examples												Additional Comparative Example
		11	12	13	14	15	16	9	10	11	12	13	14	
(1)	Stearic acid	3	3	3	3	3	3	3	3	3	3	3	3	3
(2)	Carnauba wax	5	5	5	5	5	5	5	5	5	5	5	5	5
(3)	Candelilla resin ¹	5	5	5	5	5	5	5	5	5	5	5	5	5
(4)	Cetyl alcohol	1	1	1	1	1	1	1	1	1	1	1	1	1
(5)	Purified water	balance	balance	balance	balance	balance	balance	balance	balance	balance	balance	balance	balance	balance
(6)	Triethanolamine	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5
(7)	Polypropylene filter ¹¹	2	0.5	5	-	-	-	-	-	-	-	-	-	-
(8)	Polypropylene filter ¹²	-	-	-	2	0.5	5	-	-	-	-	-	-	-
(9)	Nylon filter ¹³	-	-	-	-	-	-	2	0.5	5	-	-	-	-
(10)	Aspen fiber ¹⁴	-	-	-	-	-	-	-	-	-	-	2	0.5	5
	Alkyl acrylate	40	40	40	40	40	40	40	40	40	40	40	40	40
(11)	copolymer emulsion ¹⁵	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
(12)	Methyl p-hydroxybenzoate	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
(13)	Chamomile extract	8	8	8	8	8	8	8	8	8	8	8	8	8
(14)	Black iron oxide	5	5	5	5	5	5	5	5	5	5	5	5	5
(15)	Silica ¹⁶	5	5	5	5	5	5	5	5	5	5	5	5	5

Items of evaluation and results of determination

<u>a</u>	Uniformity of finished film	00	00	00	00	00	00	00	00	00	00	00	00	00
<u>b</u>	Make-up effect (long lash effect)	00	0	00	00	00	00	00	00	00	00	00	00	00
<u>c</u>	Long-lasting of make-up effect	00	00	00	00	00	00	00	00	00	00	00	00	00
<u>d</u>	Usability of makeup-up	00	00	00	00	00	00	00	00	00	00	00	00	00

¹1: softening point 47 to 48°C ⁴9: solid content 4.0% ¹⁰SYLKSAS01 manufactured by Fuji Silysia Chemical Ltd.
 *11: 6D, 2 min, treated with 5% perfluoralkylsilane represented by general formula (2) ($\text{R}=\text{4-} \text{p-} \text{C}_6\text{H}_4\text{, R}'=\text{OC}_2\text{H}_5\text{CH}_3$)
 *12: 6D, 2 min, treated with 5% perfluoralkylsilane represented by general formula (2) ($\text{R}=\text{4-} \text{p-} \text{C}_6\text{H}_4\text{, R}'=\text{OC}_2\text{H}_5\text{CH}_3$)
 *13: 6D, 2 min, treated with 5% perfluoralkylsilane represented by general formula (2) ($\text{R}=\text{4-} \text{p-} \text{C}_6\text{H}_4\text{, R}'=\text{OC}_2\text{H}_5\text{CH}_3$)
 *14: 6D, 2 min, treated with 5% perfluoralkylsilane represented by general formula (2) ($\text{R}=\text{4-} \text{p-} \text{C}_6\text{H}_4\text{, R}'=\text{OC}_2\text{H}_5\text{CH}_3$)

Extremely favorable: O O Favorable: O Rather unfavorable: Δ Unfavorable: X

Table D

No.	Component	Additional Example						Additional Compatiblity Examples
		17	18	19	20	21	22	
(1)	Searic acid	3	3	3	3	3	3	3
(2)	Carnauba wax	5	5	5	5	5	5	5
(3)	Candelilla resin*15	5	10	1	5	5	5	5
(4)	Cetyl alcohol	1	1	1	1	1	1	1
(5)	Purified water	balance	balance	balance	balance	balance	balance	balance
(6)	Triethanolamine	1.5	1.5	1.5	1.5	1.5	1.5	1.5
(7)	Polypropylene fiber*2	2	2	2	0.5	0.5	-	-
(8)	Polypropylene fiber*11	-	-	-	-	-	-	-
(9)	Nylon fiber*5	-	-	-	-	-	-	2
(10)	Rayon fiber*8	-	-	-	-	-	-	2
(11)	Alkyl acylate copolymer emulsion*9	40	40	40	40	40	40	40
(12)	Methyl polyhydroxybenzoate	0.5	0.5	0.5	0.5	0.5	0.5	0.5
(13)	Chamomile extract	0.1	0.1	0.1	0.1	0.1	0.1	0.1
(14)	Black iron oxide	8	8	8	8	8	8	8
(15)	Silica *10	5	5	5	5	5	5	5

Items of evaluation and results of determination

a	Make-up effect (long lash effect)	00	00	00	0	00	00	Δ	Δ
b	Long-lasting of make-up effect	00	00	0	00	00	00	Δ	X
c	Usability of make-up	00	0	00	00	00	00	0	0
d	Uniformity of finished film	0	0	0	00	00	00	0	0

*2: 6D, 2 mm, untreated *3: 6D, 2 mm, untreated

*4: 6D, 2 mm, treated with 5% perfluoralkylsilane represented by general formula (2) ($\text{X}-\text{OC}(\text{CH}_3)_2-\text{X}'-\text{OC}(\text{CH}_3)_2-\text{X}$)

*11: 6D, 2 mm, treated with 5% perfluoralkylsilane represented by general formula (2) ($\text{X}-\text{OC}(\text{CH}_3)_2-\text{X}'-\text{OC}(\text{CH}_3)_2-\text{X}$)

*15: softening point 40 to 41°C

Extremely favorable: 00 Favorable: 0 Rather unfavorable: Δ Unfavorable: X

Table B

No.	Component	Additional Example				
		23	24	25	26	27
(1)	Stearic acid	3	3	3	3	3
(2)	Carnauba wax	5	5	5	5	5
(3)	Candelilla resin ¹⁴	5	5	5	5	5
(4)	Cetyl alcohol	1	1	1	1	1
(5)	Purified water	balance	balance	balance	balance	balance
(6)	Triethanolamine	1.5	1.5	1.5	1.5	1.5
(7)	Polypropylene fiber ¹²	0.1	10	-	-	-
(8)	Polypropylene fiber ¹⁶	-	-	2	-	-
(9)	Polypropylene fiber ¹⁷	-	-	-	2	-
(10)	Polypropylene fiber ¹⁸	-	-	-	-	2
(11)	Alkyl acrylate	40	40	40	40	40
	copolymer emulsion ¹⁹					
(12)	Methyl p-hydroxybenzoate	0.5	0.5	0.5	0.5	0.5
(13)	Chamomile extract	0.1	0.1	0.1	0.1	0.1
(14)	Black iron oxide	8	8	8	8	8
(15)	Silica ²⁰	5	5	5	5	5

Items of evaluation and results of determination

a	Makro- <i>op</i> effect (long lash effect)	0	00	0	0	00
b	Long-lasting of make-up effect	00	00	00	00	00
c	Usability of make-up	00	0	00	00	00
d	Uniformity of finished film	00	0	00	00	0

Extremely favorable: 00 Favorable: 0 Rather unfavorable: Δ Unfavorable: X

¹⁴ 100% VSL50 (manufactured by Fuji Silysia Chemical Ltd.)

¹⁶ 0.5D, 0.5 mm, untreated

¹⁷ 0.3D, 0.5 mm, untreated

¹⁸ 12D, 1 mm, untreated

¹⁹ solid content 40%

Table F1

No.	Component	Additional Example						Additional Comparative Examples					
		28	29	30	17	18	19	20	21	22	23	24	
(1)	Stearic acid	3	3	3	3	3	3	3	3	3	3	3	
(2)	Carnauba wax	5	5	5	5	5	5	5	5	5	5	5	
(3)	Polyisobutylene (M.W.50,000)	5	-	-	5	-	-	5	-	-	-	-	
(4)	Trimethylsilyloxy silicates	-	5	-	-	5	-	-	5	-	-	-	
(5)	Decamethylcyclopentasiloxane	-	5	-	-	5	-	-	5	-	-	-	
(6)	Pentaerythritol rosinate	-	-	5	-	-	5	-	-	5	-	-	
(7)	Cetyl alcohol	1	1	1	1	1	1	1	1	1	1	1	
(8)	Purified water	balance	balance	balance	balance	balance	balance	balance	balance	balance	balance	balance	
(9)	Triethanolamine	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	
(10)	Polypropylene Fiber*2	2	2	2	-	-	-	-	-	-	-	-	
(11)	Nylon Fiber*5	-	-	-	2	2	2	2	-	-	-	-	
(12)	Rayon fiber*8	-	-	-	-	-	-	-	2	2	2	2	
(13)	Alkyl acylate copolymer emulsion*9	40	40	40	40	40	40	40	40	40	40	40	
(14)	Methyl p-hydroxybenzoate	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	
(15)	Chamomile extract	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	
(16)	Black iron oxide	8	8	8	8	8	8	8	8	8	8	8	
(17)	Silica *10	5	5	5	5	5	5	5	5	5	5	5	

Items of evaluation and results of determination

		Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ
a	Make-up effect (long lash effect)	00	00	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ
b	Long-lasting of make-up effect	00	00	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ
c	Usability of make-up	00	00	0	0	0	0	0	0	0	0	0	0
d	Uniformity of finished film	0	0	0	0	0	0	0	0	0	0	0	0

Extremely favorable: 00 Favorable: 0 Rather unfavorable: Δ Unfavorable: X

*2: 6D, 2 min, untreated

*5: 6D, 2 min, untreated

*8: 6D, 2 min, untreated

6. Examples of cosmetic compositions, which include polypropylene fibers having a thickness of 0.3, 0.5, 3, 6, 10 and 12 denier (D) and surprisingly exhibit superior long lash effect, long lasting effect, usability and uniformity, are shown in the preceding Tables.

7. Examples of cosmetic compositions, which include polypropylene fibers having a length of 0.5, 1, 2 and 3 mm and surprisingly exhibit superior long lash effect, long lasting effect, usability and uniformity, are shown in the preceding Tables.

8. Examples of cosmetic compositions, which include polypropylene fibers being present in an amount of 0.1, 0.5, 2, 5 and 10 wt. % and surprisingly exhibit superior long lash effect, long lasting effect, usability and uniformity, are shown in the preceding Tables.

9. Examples of cosmetic compositions, which include an oil soluble resin and surprisingly exhibit superior long lash effect, long lasting effect, usability and uniformity, wherein the oil soluble resin is selected from one or more of polyisobutylene (Ex. 28 of Table F), trimethylsiloxy silicate (Ex. 29 of Table F), decamethylcyclopentasiloxane (Ex. 29 of Table F), pentaerythrityl rosinate (Ex. 30 of Table F), candelilla resin obtained from fractionation and having a softening point of from 47°C to 48°C (Ex. 1-16 and 23-27 of Tables 1, A, B, C and E) and candelilla resin obtained from fractionation and having a softening point of from 40°C to 41°C (Ex. 17-22 of Table D), are shown in the preceding Tables and described in the present specification (See e.g., page 9, lines 15-25, page 10, lines 1-14, and page 19).

10. Examples of cosmetic compositions, which include untreated polypropylene fibers and surprisingly exhibit superior long lash effect, long lasting effect, usability and uniformity, are shown in Table A (Ex. 1), Table B (Ex. 2-10), Table D (Ex. 17-21), Table E (Ex. 23-27) and Table F (Ex. 28-30). It should be mentioned that silica (Sylisia 550) is incorporated into the cosmetic composition as a powdered filler.

11. An example of a cosmetic composition, which includes polypropylene fibers surface treated with silica and surprisingly exhibits superior long lash effect, long lasting effect, usability and uniformity, is shown in Table 1 (Ex. 1).

12. Examples of cosmetic compositions, which include polypropylene fibers surface treated with a perfluoroalkylsilane compound according to general formula (2) (wherein a = 4, b = 2, c = 1, and X = -OCH₂CH₃) and surprisingly exhibit superior long lash effect, long lasting effect, usability and uniformity, are shown in Table C (Ex. 11-16) and Table D (Ex. 22) and described in the present specification (See e.g., page 6, lines 5-19).

13. Comparative Examples of conventional cosmetic compositions, which include untreated nylon fibers and exhibit inferior long lash effect, long lasting effect, usability and uniformity, are shown in Tables 1 and A (Comp. Ex. 1), Table B' (Comp. Ex. 1-5), Table D (Comp. Ex. 15), and Table F (Comp. Ex. 17-19).

14. Comparative Examples of conventional cosmetic compositions, which include surface treated nylon fibers and exhibit inferior long lash effect, long lasting effect, usability and uniformity, are shown in Table C (Comp. Ex. 9-11).

15. Comparative Examples of conventional cosmetic compositions, which include untreated rayon fibers and exhibit inferior long lash effect, long lasting effect, usability and uniformity, are shown in Tables 1 and A (Comp. Ex. 3), Table B' (Comp. Ex. 6-8), Table D (Comp. Ex. 16) and Table F (Comp. Ex. 20-22).

16. Comparative Examples of conventional cosmetic compositions, which include surface treated rayon fibers and exhibit inferior long lash effect, long lasting effect, usability and uniformity, are shown in Table C (Comp. Ex. 12-14).

17. This evidence clearly illustrates that cosmetic compositions which include: polypropylene fibers having a thickness within the range of from 0.1 to 12 D and a length within the range of from 0.1 to 3 mm; and an oil soluble resin, unexpectedly exhibit superior properties, with respect to long lash effect, long lasting effect, usability and uniformity, as compared to the undesirable properties associated with conventional cosmetic compositions which alternatively include nylon (polyamide) or rayon (cellulose) fibers in place of the polypropylene fibers.

18. In my opinion, Examples similar in composition to Examples 1-30 of the preceding Tables, but including untreated or surface treated polypropylene fibers having varying values of thickness within the range of from 0.1 to 12 D and varying values of length within the range of from 0.1 to 3 mm, would exhibit comparable properties to those of Examples 1-30, with respect to superior long lash effect, long lasting effect, usability and uniformity, as would such Examples with varying amounts of polypropylene fibers within the range of from 0.1 to 10 wt. %. I am aware of no reason to believe otherwise.

19. The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Masaki Okuyama
Masaki OKUYAMA

March 14, 2008
Date